Gas Industry Company
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Options for Information Disclosure in the Wholesale Gas Sector

Thank you for the opportunity to provide feedback on the consultation paper on options for information disclosure in the wholesale gas sector. We also appreciated the opportunity to attend the workshop in Wellington. Mercury was concerned that some workshop participants appeared to consider the current levels of information disclosure in the gas sector in New Zealand were adequate. In comparison to the electricity market, which has an information disclosure regime, the gas sector has no formal systematic arrangement for the timely disclosure of information.

Mercury considers information disclosure in the wholesale gas sector is a problem that needs to be addressed and is highly likely to be net beneficial based on mitigating the impacts to the wholesale electricity market alone. The voluntary information disclosure regime implemented in the electricity wholesale market along with the regimes applied in other jurisdictions will be a good starting point for review.

Mercury supports the gas industry collaborating to develop a regime that can, if considered satisfactory, be transitioned into regulation. The Electricity Authority (EA) should undertake further analysis of the electricity regime with a view to potentially strengthening the information disclosure regime further and introducing regulation to improve market performance and the GIC should follow suit for the gas wholesale market.

Information disclosure is a key feature of all well-functioning markets

Effective information disclosure is a fundamental feature of well-functioning energy markets whether in electricity or gas. Access to relevant information enables greater market transparency and reduces risk and uncertainty (by providing participants with better information), removing information asymmetries (by allowing all participants access to the same information) and improving market liquidity (by encouraging more parties to actively participate in the market). Improved market transparency facilitates better monitoring by regulators and third parties so that anti-competitive behaviour is detected. Mercury supports the statement from the GIC as noted in its consultation paper:

> "…free-flowing, timely and accurate information is a key element of a competitive landscape. Information enables producers to compete in the market and is a key factor in enabling them to supply their product at least cost to meet demand. It provides the signal for further investment, including additional capacity. Information transparency is important for minimising barriers to entry for new market participants."[1]

A transparent market will result in efficient allocation of resources rather than inefficient wealth transfers to those parties with superior information. It will also result in better risk management and resource allocation, more confidence in the integrity of the market, and lower prices to consumers. In short, a better outcome for New Zealand. For these reasons Mercury would like to see an information disclosure regime developed for the gas wholesale market as soon as possible. We note also that New Zealand appears to lag behind other jurisdictions such as Australia and the UK with respect to disclosure of gas wholesale market information.

[1] GIC Consultation Paper: Options for Information Disclosure in the Wholesale Gas Sector, pg3.

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Information disclosure in the gas wholesale market will boost electricity wholesale market performance

In New Zealand, as in most countries, the wholesale gas and electricity markets are interconnected - events in one market have implications for the wider energy market. Gas producers and transmission businesses supply electricity wholesalers and retailers. This situation is likely to continue well into the future as several significant independent pieces of research have indicated thermal generation will continue to play an essential role to cost effectively meet electricity demand in years where hydro inflows are lower than expected[2]. Gas production and pipeline outages (planned and unplanned), production forecasts, supply and demand levels (including consumption profiles of large gas users) and prices (including trading volumes), all have an impact on the efficient functioning of, and confidence in, the electricity wholesale market.

In the electricity wholesale market generator-retailers who use gas to generate electricity have access to information about gas availability that is not readily available to other market participants. For example, their competitors, small and medium sized commercial businesses who buy electricity in the spot market and independent third parties who trade electricity on the futures market.

When planned and unplanned outages occur in gas field production or pipeline transmission as happened in the final quarter of 2018 for example, thermal electricity generators are invariably privy to this information ahead of other market players. In these circumstances, thermal generators may conclude spot market electricity prices will likely rise (certainly if they withdraw (thermal) generation the likelihood of this occurring increases) and they could then buy electricity hedge cover from others before the market has become aware of the upcoming gas supply restrictions and therefore before the prices in the forward markets have reacted.

This information asymmetry can have a material impact on other market participants risk positions and confidence in both in the spot and futures markets. This is particularly the case in times of tight fuel supply, for example when the hydro-lake levels and inflows are low. This information asymmetry creates issues for experienced market participants with significant resources and experience at their disposal like Mercury and the System Operator (SO). However, it creates even greater issues for small, independent and new entrant retailers, independent generators and other market participants looking to manage risk positions or offer risk cover who do not have the same level of resources supporting them.

We have observed in the last few years that a risk premium appears to be being priced into forward electricity contracts as market participants face uncertainty regarding thermal fuel availability. As noted above this has the potential to result in less efficient long-term outcomes for consumers.

If market participants like Mercury are aware of planned gas outages (fuel supply or plant) any non-urgent plant maintenance can be postponed ensuring the electricity market retains capacity to meet demand. Steps can also be taken to manage fuel supplies with better information about what supply contracts are being offered. If the SO has better information on gas outages and medium-term production plans it can more effectively monitor security of supply and update the assumptions behind the hydro risk curves to better reflect the reality of an electricity supply shortfall. Overall the result is superior market co-ordination and better management of the risk of supply shortfall or unnecessarily high prices for consumers.

Better information disclosure (which would address the information asymmetry problem) would also assist with market making in the electricity wholesale market. Currently only two of the four market-makers have gas market knowledge (for example about upcoming gas transmission and supply outages) and this has created some challenges for the sustainability of market making of the NZ electricity futures.

Concerns about the electricity market impacts resulting from gas outages (among other things) led to a group of independent electricity retailers and Vector requesting the Electricity Authority (EA) to declare an undesirable trading situation (UTS) in 2018. In its report on the UTS, the EA noted that some market participants had better information than others and that while some information was publicly available it was not easy to locate and nor was it made available on a consistent basis that was easy to interpret[3].

[2] Interim Climate Change Committee report to Minister of Climate Change (forthcoming), NZ Productivity Commission 'Low-Emissions Economy' Final Report August 2018, pg 384.
[3] Electricity Authority decision on claim of an undesirable trading situation, 14 February 2019, pg 46.

There has similarly been ongoing frustration expressed by market participants such as Mercury regarding the inconsistent approach to disclosure of electricity generation fuel supplies and forecasts. While information on hydro inflows is publicly available on a continuous basis, the same is not the case with respect to coal and gas fuel supplies. Mercury supports the EA tightening the wholesale electricity market disclosure rules and its consideration of options to manage around the confidentiality clauses in long term gas supply contracts which currently provide a "way out" for thermal generators to not disclose information that could have a material impact on electricity prices. This may mean eventually replacing the current voluntary approach with regulation as a last resort.

The Panel conducting the Electricity Price Review for the Minister of Energy has also raised concerns about the quality of information disclosure in the wholesale electricity market. In the recently released Options Paper it indicated support for recommending that the EA and GIC undertake further work on information disclosure. The Panel will submit its final report to Minister Woods at the end of May.

Voluntary information disclosure can be enhanced

Mercury supports the GIC suggestion raised at the consultation workshop that it would be helpful if industry participants collaborated to develop an improved information disclosure regime which, if deemed sufficiently robust, could then be confirmed in regulation. We consider regulation may be necessary to ensure that the regime applies equally to all parties and the GIC has the power to monitor compliance and if necessary, ensure the regime is enforced. We note that it is unclear whether the GIC currently has the power to regulate for information disclosure and MBIE will shortly consult on amendments to the Gas Act to clarify the position.

Our experience with the wholesale gas market has been that some market participants are better at disclosing information than others. Mercury appreciates that in times of crisis information disclosure is often increased and while this benefits the market, it is necessary to ensure a consistently high level of disclosure across all parties at all times.

Wholesale electricity market information disclosure is a potential starting point

Our experience with the electricity wholesale market information disclosure regime has been that monitoring and compliance are important pre-requisites to an effective system. Gas market participants are likely to be best placed to develop a regime that is workable and least cost, including some straightforward, low cost interim solutions. For example, disclosing planned outages on company websites could be put in place ahead of any regulation. However, information disclosure in the electricity wholesale market could be enhanced in our view through increased powers for regulators to investigate breaches and penalties for non-compliance.

Mercury appreciates that the wholesale gas market differs from the electricity arrangements in some important respects including a high level of concentration on both the supply and demand side, a prevalence of bilateral contracts and joint venture arrangements all with unique provisions and confidentiality requirements. However, we see the regime that has been developed for the electricity wholesale market provides a valuable starting point.

Under the electricity arrangements 'disclosure information' is information that could have a material impact on prices in the wholesale market. Any such information held by a participant is required to be made available to the public free of charge, as soon as reasonably practical after the participant becomes aware of it. This creates a 'continuous disclosure' obligation for participants. The regime could have some temporary exemptions to the immediate release of information. The efficient functioning of competitive markets generally relies on information that may have a material impact on prices in markets being made available. Mercury considers it is timely for the GIC to introduce an information disclosure regime. Recent production outages in both production platforms and transmission pipelines have highlighted that participants in the gas and electricity markets need to have access to sufficiently detailed information in a timely manner in order to facilitate the efficient and transparent operation of these markets.

Yours sincerely,

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Wholesale Markets Manager

cc Rob Bernau, Acting General Manager Market Development
Electricity Authority

Consultation Questions

Question	Mercury Response
Q1 Should shippers be included in an information regime? If so what information do you consider should be disclosed?	We believe an information disclosure regime should apply to all market participants.
Q2 Is the information currently disclosed by the transmission pipeline operator sufficient? If not, what further information should be released through information disclosure requirements?	We have no particular view but anticipate further work on a potential disclosure regime will provide more information to guide the discussion.
Q3 Have the upstream sector and its potential information issues been characterised appropriately? Have we missed aspects of the problem or are there parts of the identified problem that we have not described correctly?	Yes, although there is no description of the flow-on issues including those who have contractual relationships being privy to information on for example planned outages and not passing on to the wholesale electricity market and what this means in terms of effect on electricity supply. We would like to see this issue addressed either through the GIC or, if more appropriate the Electricity Industry Participation Code.
Q4 Have the demand-side and its potential information issues been characterised appropriately? Have we missed aspects of the problem or are there parts of the identified problem that we have not described correctly?	Yes.
Q5 What process does your organisation have to obtain information ahead of, during, periods of reduced gas supply?	We scan publicly available information such as the balancing gas information exchange.
Q6 How is your organisation impacted during periods of reduced gas supply?	As a large generator-retailer in the electricity market we need the best possible information on fuel availability in order to make the best quality decisions on what supply to offer into the market but also how to manage our risk position in both the short and longer term. Our fuel supply information such as hydro availability is publicly available but if our competitors have access to information about gas supply that we don't have information asymmetry exists and this results in inefficient decision-making and poor market outcomes. Information asymmetry also makes market-making more challenging.
Q7 What steps does your organisation's risk assessment or business continuity plan expect to be undertaken to limit the impact of periods of reduced gas supply?	If we were aware of a gas shortage we would be able to more efficiently manage our risk position, in particular our sales, our generation capability and our acquired generation, e.g contracts for difference. If a gas outage was forecast to be particularly severe, we could postpone any non-urgent maintenance of our plants to help ensure the market has sufficient capacity to meet demand.
Q8 Taking into account your risk assessments and business continuity plans, what information do you use and what further information would be useful to your organisation to inform your actions and decisions during periods of reduced gas supply?	In principle the more information that is available the better in terms of facilitating a well-functioning market. We would particularly like to see greater visibility on gas outages, both production and pipeline transmission whether planned or unplanned and changes in supply and demand forecasts.

Q9 Is there any further information regarding outages that you would like to share?	No.
Q10 Have the potential information problems in the wholesale gas market been identified appropriately? Have we missed aspects or described aspects incorrectly?	Yes.
Q11 Have the potential information transparency and availability issues in the wholesale gas sector been analysed appropriately against the Gas Act and GPS objectives? Are there any elements of the analysis that have been missed or parts of the problem that have not been described correctly?	Yes.
Q12 Has the proposed problem statement been characterised appropriately? Have we missed aspects of the problem or are there parts of the identified problem that we have not described correctly?	Yes.
Q13 Has the voluntary disclosure option been identified appropriately? Are there alternative versions of the option that are worthy of consideration?	Yes.
Q14 Do you agree with the advantages that have been identified for the option?	Yes although likely overstated.
Q15 Do you agree with the disadvantages that have been identified for the option?	Yes.
Q16 Given the advantages and disadvantages do you consider that the voluntary disclosure option is viable?	No because as the consultation paper notes the advantages of this option are minimal and outweighed by the disadvantages. If implemented a sustainable, robust information disclosure regime will not materialise.
Q17 Has the principles-based information disclosure option been identified appropriately? Are there alternative version of the option worthy of consideration?	Yes.
Q18 Do you agree with the advantages identified for the option?	Yes.
Q19 Do you agree with the disadvantages identified for the option?	Yes.
Q20 If a principles-based information disclosure option is adopted do you think there should be exclusions to the information disclosed, if so what exclusions and why? If confidentiality is an issue please explain.	Potentially, but any exemption would need to be clearly defined and policed. Our experience with electricity market information disclosure has been that if exemptions are worded in a general way they will be used to justify non-disclosure when disclosure would be the better outcome.
Q21 Has the specific information disclosure option been identified appropriately? Are there alternative versions worthy of consideration?	Yes.
Q22 Do you agree with the advantages identified for the option?	Yes.

Q23 Do you agree with the disadvantages identified for the option?	Yes and we note they are the same as those that exist for principles-based information disclosure – those not inclined to disclose information can always look for loopholes to any regime.
Q24 Have the implementation issues associated with the specific information disclosure option been characterised appropriately?	Yes.
Q25 Do you think that principles-based information disclosure based on industry-led arrangement is a viable option?	No for the reasons outlined the consultation document.
Q26 Do you agree with the proposed coverage of the disclosure options? What issues do you see with the proposals?	Yes. Some parties will have to disclose more information than they do now. There may be a need for legislative amendment to clarify that the disclosure regime takes priority over contractual arrangements.
Q27 Should there be coverage exclusions (i.e. particular parties or types of party) included in the disclosure regime? If so what and why?	We are undecided, we would need to consider the case for exemptions to form a view.
Q28 Should there be a minimum threshold? If so, what should it be and what should it be based on (e.g. nameplate capacity, X GJ/day)? Should the minimum threshold be the same for all types of market participants or should it vary between market segments?	We are undecided but it may be sensible to have a minimum threshold, this is something to consider when working on implementation details.
Q29 Should the threshold be on a facilities basis or company basis?	Both, the most important information is about the facility.
Q30 Are there any other information disclosure rules that should be considered?	No comment.
Q31 Has this planned outage disclosure option been identified appropriately? Are there alternatives worthy of consideration?	Yes.
Q32 Do you agree with the advantages that have been identified for the planned outage disclosure option?	Yes.
Q33 Do you agree with the disadvantages that have been identified for the planned outage disclosure option?	Yes.
Q34 If this planned outage disclosure option is adopted do you think there should be exclusions on information that is disclosed? If so what types of exclusions? If confidentiality is an issue please explain why.	No.
Q35 Has this unplanned outage disclosure option been identified appropriately? Are there alternatives worthy of consideration?	Yes.
Q36 Do you agree with the advantages that have been identified for the unplanned outage disclosure option?	Yes.
Q37 Do you agree with the disadvantages that have	Yes.

been identified for the unplanned outage disclosure option?	
Q38 If this unplanned outage disclosure option is adopted do you think there should be exclusions on information that is disclosed? What types of exclusions? If confidentiality is an issue please explain why?	No.
Q39 Should lagged emsTradepoint traded volumes and prices be disclosed under an information disclosure regime?	Yes in the interests of permitting suppliers and users of gas to make better informed business decisions promoting the efficiency of the gas market and the wider energy sector.
Q40 Do you agree with the advantages that have been identified for the emsTradepoint disclosure option?	Yes.
Q41 Do you agree with the disadvantages that have been identified for the emsTradepoint disclosure option?	Yes.
Q42 Should there be publication of weighted average wholesale prices and aggregate traded volumes that cover the entire gas wholesale sector (with data sources including price and volume information covered under bilateral agreements and other arrangements)?	Yes.
Q43 Do you agree with the advantages that have been identified for this weighted average price and volumes disclosure option?	Yes.
Q44 Do you agree with the disadvantages that have been identified for this weighted average price and volumes disclosure option?	Yes.
Q45 Are there confidentiality issues that would limit this option?	Don't know as not privy to contracts.
Q46 Should a twelve month outlook for gas production information be disclosed under an information disclosure regime?	Yes this is very important. We would prefer the information to be disclosed in the same place as electricity wholesale fuel information is disclosed.
Q47 Do you agree with the advantages that have been identified for this gas production information disclosure option?	Yes.
Q48 Do you agree with the disadvantages that have been identified for this gas production information disclosure option?	Yes.
Q49 Are there confidentiality issues that would limit this gas production information disclosure option?	Don't know as not privy to contracts.
Q50 Should a twelve month outlook for major users' gas consumption information be disclosed under an information disclosure regime?	Yes.We would prefer the information to be disclosed in the same place as electricity wholesale fuel information is disclosed..
Q51 Do you agree with the advantages identified for the gas consumption information disclosure option?	Yes.
Q52 Do you agree with the disadvantages identified for	Yes.

the gas consumption information disclosure option?	
Q53 Are there confidentiality issues that would limit this gas consumption information disclosure option?	Don't know as not privy to contracts.
Q54 Have any publication channels been left out of the identified channel list? Are there channels in the list that should be excluded?	No.
Q55 What do you consider the pros and cons of the various options that have been identified and other options that should be considered?	We consider the consultation paper gives a good broad overview of the pros and cons. Gas market participants will have the best supplementary information on the pros and cons.
Q56 Have you got any comments on the benefit analysis?	No.
Q57 Could you provide the GIC with estimates of your expected costs associated with the implementation and ongoing management of the various information disclosure options?	As we understand it our activities would not be covered by any information disclosure regime.